

Approved by OMB  
3060-0440  
Expires 2/28/93

FEDERAL COMMUNICATIONS COMMISSION  
**FEE PROCESSING FORM**

FOR  
FCC  
USE  
ONLY

FCC/MEL.CN FEB 23 1994 mk

02-24-94 8300389 002

Please read instructions on back of this form before completing it. Section I MUST be completed. If you are applying for concurrent actions which require you to list more than one Fee Type Code, you must also complete Section II. This form must accompany all payments. Only one Fee Processing Form may be submitted per application or filing. Please type or print legibly. All required blocks must be completed or application/filing will be returned without action.

**SECTION I**

APPLICANT NAME (Last, first, middle initial)

American Mobilphone, Inc.

MAILING ADDRESS (Line 1) (Maximum 85 characters - refer to Instruction (2) on reverse of form)

c/o Brown Nietert & Kaufman, Chartered

MAILING ADDRESS (Line 2) (if required) (Maximum 85 characters)

1920 L Street, NW, Suite 660

CITY

Washington

STATE OR COUNTRY (if foreign address)

DC

ZIP CODE

20036

CALL SIGN OR OTHER FCC IDENTIFIER (if applicable)

WPDB244

Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in FCC Fee Filing Guides. Enter in Column (B) the Fee Multiple, if applicable. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number entered in Column (B), if any.

(A)	(B)	(C)	
FEE TYPE CODE	FEE MULTIPLE (if required)	FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	FOR FCC USE ONLY
(1) P D W		\$105.00	

**SECTION II**

— To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.

(A)	(B)	(C)	
FEE TYPE CODE	FEE MULTIPLE (if required)	FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	FOR FCC USE ONLY
(2)		\$	
(3)		\$	
(4)		\$	
(5)		\$	

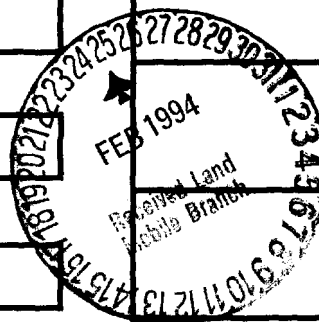
ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (5), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE.

TOTAL AMOUNT REMITTED  
WITH THIS APPLICATION  
OR FILING

\$

FOR FCC USE ONLY

105.00



## INSTRUCTIONS FOR COMPLETING FEE PROCESSING FORM, FCC FORM 155, March 1991

- (1) **"Applicant Name"** - Enter the name (last, first, middle initial) of the applicant as it appears on the original application or filing being submitted with this Fee Processing Form. If company, enter name which is used commercially.
- (2) **"Mailing Address (Line 1)"** - Enter the street address or post office box number to which the applicant wishes correspondence sent.
- (3) **"Mailing Address (Line 2)"** - This line may be used for further identification of the address if additional space is required.
- (4) **"City"** - Enter the name of the city associated with the given street address.
- (5) **"State or Country"** - Enter the appropriate two-digit state abbreviation as prescribed by the U.S. Postal Service. If address is foreign, enter the appropriate country name here.
- (6) **"ZIP Code"** - Enter the appropriate five or nine-digit ZIP code prescribed by the U.S. Postal Service.
- (7) **"Call Sign or Other FCC Identifier"** - Enter an applicable call sign or unique FCC identifier, if any, as shown on your attached application or filing. If applying for a service affecting more than one call sign, enter one call sign only.
- (8) **Column (A), "Fee Type Code"** - Enter correct Fee Type Code(s) from the appropriate Fee Filing Guide. Only one Fee Processing Form may be submitted per application or filing. Inaccurate or erroneous Fee Type Codes may result in your application or filing being returned to you without further processing.
- (9) **Column (B), "Fee Multiple"** - Certain applications and filings may request action with respect to more than one station, license, frequency, or party and can be submitted together with one check if they meet specific conditions. This column is used only if a multiple, i.e., two or more, is being applied for. Examples of when this would be used are renewing more than one call sign, frequency, station, or the transfer of control of more than one station. Refer to the appropriate Fee Filing Guide for additional information.
- (10) **Column (C), "Fee Due For Fee Type Code in Column (A)"** - Enter in this block the amount of the fee associated with the Fee Type Code shown in Column (A) (times (x) the fee multiple, if required).
- (11) **"Total Amount Remitted With This Application or Filing"** - Enter the total of lines (1) through (5) of Column (C). This amount should equal the amount of your check or money order. We will not accept multiple checks.

### HOW TO SUBMIT APPLICATIONS AND FILINGS

- o Each application or filing should be assembled with the Fee Processing Form, FCC Form 155, stapled to the top of the application with the check placed on top of the Fee Processing Form. **DO NOT STAPLE THE CHECK TO THE APPLICATION OR FEE PROCESSING FORM, FCC FORM 155.** Required copies of applications should be clearly identified as "duplicate copy" and placed behind the original package. **"Stamp and receipt" copies should be placed on top of the original package and CLEARLY identified as return copies.** Extraneous material and extra copies should be avoided at all times. Failure to follow these instructions will delay the processing of your submission.
- o Completed applications or filings should be mailed to the proper address shown in the Fee Filing Guide for the particular service for which you are applying or making a filing. **All applications and filings must be properly addressed to the appropriate P.O. box number,** even if hand delivered to the address listed below. Applications received before midnight on a normal business day will receive that day's date as the receipt date. Deliveries made after midnight on Fridays will not be "officially" receipted until the next Monday. Applications received on weekends and government holidays are dated the next regular business day.
- o A single check, bank draft or money order made payable to the Federal Communications Commission and denominated in U.S. dollars and drawn upon a U.S. financial institution must be included with each application or filing requiring a fee. No postdated, altered or third-party checks will be accepted. Do not send cash.
- o Parties hand delivering applications or filings may receive dated receipt copies by presenting copies of the applications or filings to the acceptance clerk at the time of delivery. **Receipts will be provided for mail-in applications or filings if an extra copy of the application or filing is provided along with a self-addressed stamped envelope. Only one piece of paper per application or filing will be stamped for receipt purposes.**

### REMEMBER

- o A separate completed Fee Processing Form is required with each application or filing except in certain circumstances. Please refer to the appropriate Fee Filing Guide for additional information.
- o A wrong Fee Type Code or incorrect remittance may result in your application or filing being returned without processing, or result in the dismissal of your application or filing. Please ensure that FEE TYPE CODES are correct and that your check or money order equals the amount shown in the TOTAL AMOUNT REMITTED WITH THIS APPLICATION OR FILING block before submitting your application or filing.
- o If you have any questions completing this form, please call the Fees Hotline, 202/632-FEES.

### FCC NOTICE FOR INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

Part 1, Subpart G of the Commission's rules authorize the FCC to request the information on this form. The information requested is required in order to obtain a license or authorization from the Commission. The purpose of the information is to provide a means to link a fee payment to a specific invoice, application or filing. The information will be used by the Commission to maintain data concerning fees paid to the Commission, for internal financial control, audit, and reporting purposes. Information requested on this form will be available to the public. Your response is required to obtain a license or other authorization from the Commission.

Public reporting burden for this collection of information is estimated to average 10 minutes per response, including the time for reviewing instructions, searching data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060-0440), Washington, DC 20503.

**This address is for hand carry  
or courier delivery only:**



Federal Communications Commission  
c/o Mellon Bank  
Three Mellon Bank Center  
525 William Penn Way  
27th Floor, Rm. 153-2713  
Pittsburgh, Pennsylvania  
(Attention: Wholesale Lockbox Shift Supervisor)

LAW OFFICES  
BROWN NIETERT & KAUFMAN, CHARTERED  
SUITE 660  
1920 N STREET, N.W.  
WASHINGTON, D.C. 20036

TEL (202) 887-0600  
FAX (202) 457-0126

February 22, 1994

Ralph A. Haller, Chief  
Private Radio Bureau  
Federal Communications Commission  
2025 M Street, N.W.  
Washington, D.C. 20554

Re: American Mobilphone, Inc. Request for Waiver of  
Section 90.495(a)(2) of the Commission's Rules

Dear Mr. Haller:

American Mobilphone, Inc. ("AMI"), pursuant to Section 90.151 of the Commission's Rules, respectfully requests a waiver of Section 90.495(a)(2) of the Rules respecting AMI's grandfathered regional exclusive 929 MHz regional system to serve Alabama, Mississippi, Louisiana, Georgia, Tennessee and the Florida panhandle area. AMI has grandfathered licenses for ninety (90) transmitters spread across six states. Among these transmitters are six transmitters in the Atlanta, Georgia metropolitan area. AMI herein seeks a waiver of the last sentence of Section 90.495(a)(2) to allow AMI's six Atlanta transmitters to be included as a part of AMI's grandfathered exclusive regional system.<sup>1</sup>

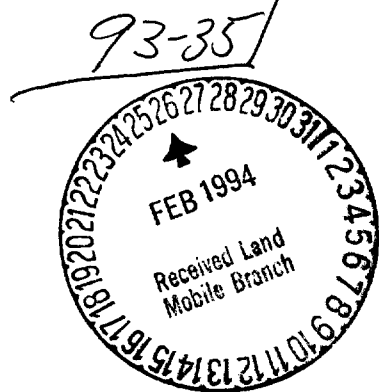
Under the last sentence of §90.495(a)(2), base stations in the nation's thirty largest metropolitan areas cannot be included in regional exclusive 929 MHz PCP systems unless they would qualify independently for local exclusivity under §90.495(a)(1), which is the Commission's local exclusivity rule. As required by the local exclusivity rule, AMI has six sites to serve Atlanta. However, although five of the six Atlanta transmitters are within 25 miles of at least one other Atlanta transmitter, the sixth transmitter, in Fairplay, Georgia, is 29.7 miles away.<sup>2</sup> Nonetheless, as

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<sup>1</sup> AMI's other 84 transmitter sites qualify as a grandfathered regional exclusive 929 MHz system under Section 90.495, irrespective of how the Commission rules upon the instant waiver request.

<sup>2</sup> All facts set forth in this Waiver Request are verified by the attached declaration of Stephen L. Flickinger.

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Ralph A. Haller, Chief  
February 22, 1994  
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discussed below, based upon AMI's actual "real-world" experience in operating AMI's existing 462.750 MHz private carrier paging system in Atlanta, the Fairplay site will provide overlapping coverage with AMI's downtown Atlanta location, and the Fairplay location should be treated as "contiguous" under §90.495(a)(1), notwithstanding that it is slightly over 25 miles from the downtown Atlanta site. As the six Atlanta sites are functionally contiguous, providing seamless service between the six transmitter sites, AMI believes the requested waiver should be granted.

#### **I. Background**

AMI is a major provider of paging service throughout the eastern United States, and especially in the Southeast. Upon the Commission's proposing to establish channel-exclusive regional 929 MHz systems, AMI sought authority for a regional 929 MHz system in areas served by its existing 462.750 MHz system as well as neighboring states. In order for a 929 MHz regional paging system to qualify for channel exclusivity protection, the Commission's Rules require that the system be composed of at least 70 transmitters in no more than 12 states. See §90.495(a)(2). AMI has satisfied that requirement, as it is licensed for ninety transmitters in six contiguous states. (See n.1, supra.)

Under the last sentence of §90.495(a)(2), in each of the nation's top-30 markets located within the region, "no transmitter may be counted as part of a regional system...unless it would qualify as part of a local system under paragraph (a)(1)(i) of this section." AMI's system included two such markets, Atlanta and New Orleans.

Section 90.495(a)(1)(i) provides that a local system must consist of six contiguous transmitters, and that transmitters will be considered "contiguous" if:

"(A) each transmitter is located within 40 kilometers (25 miles) of at least one other transmitter in the system;

(B) the combined areas defined by a 12.5 mile radius around each transmitter form a single contiguous area; and

(C) no transmitter is co-located with any other transmitter being counted as part of a local system for purposes of this section."

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As noted, AMI already operates a 462.750 MHz paging system in Atlanta, with, inter alia, a 462.750 MHz transmitter site in downtown Atlanta (one-half mile from the Georgia-Pacific building site licensed on 929 MHz call sign WPDB244), and a 462.750 MHz transmitter site at the same Fairplay location licensed for 929.8125 MHz on call sign WPDB244. These two existing 462.750 MHz transmitters, as tested by AMI engineers and utilized routinely by AMI customers after construction of the 462.750 MHz system, provide seamless contiguous coverage, meaning that coverage from the transmitters overlap. There are no holes or gaps in coverage at 462.750 MHz. Moreover, one can see the Georgia-Pacific Building with the naked eye from the base of the Fairplay tower. Based on the actual 462.750 MHz signal strength and the naked-eye line-of-site between the two locations, AMI assumed that AMI's Fairplay site in suburban Atlanta had to be no more than 25 miles from AMI's Georgia-Pacific site in downtown Atlanta.

In the interest of economy and expediency, and assuming based on the 462.750 MHz paging system experience that each Atlanta area site was within 25 miles of another Atlanta area site, AMI specified the Fairplay site for one of its six sites for the Atlanta portion of its 929-930 MHz regional system. Thus under Section 90.495(a)(1)(i), AMI's 929 MHz system, although it will in fact provide seamless service in the Atlanta area, cannot qualify for exclusivity in Atlanta without the requested waiver.

## II. Discussion

The purpose of the Commission's geographic restriction on the maximum distance that can exist between two 929 MHz transmitters for local exclusivity is to force applicants to ensure coverage to the entire metropolitan area and prevent warehousing. AMI's design of the Atlanta portion of AMI's regional system satisfies the intent of the Commission's requirements for system exclusivity. Each of the six Atlanta area 929 MHz sites will provide overlapping service to at least one other transmitter site. Five of the six transmitters satisfy the letter of §90.495(a)(1)&(2), and the sixth site, the Fairplay site, misses the letter of the rule by less than five miles and will provide real-world service that overlaps with AMI's downtown Atlanta site. To deny AMI the right to include its six Atlanta sites within AMI's overall regional system would place form over substance.

BROWN NIETERT & KAUFMAN, CHARTERED

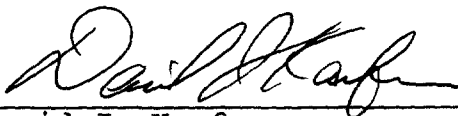
Ralph A. Haller, Chief  
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For these reasons, AMI requests a waiver of the last sentence of Section 90.495(a)(2), allowing AMI to include its six Atlanta area sites within AMI's grandfathered regional exclusive 929 MHz PCP system.

Respectfully submitted,

**AMERICAN MOBILPHONE, INC.**

By:

  
\_\_\_\_\_  
David J. Kaufman  
Its Attorney

DJK\HALLER.WVR  
Enclosure

cc: American Mobilphone, Inc.  
NABER

# DECLARATION

1. My name is Stephen L. Flickinger. I am the president and chief operating officer of American Mobilphone, Inc. ("AMI"). AMI is a longtime licensee of the Federal Communications Commission ("FCC") under both Part 22 and 90, serving tens of thousands of paging customers across the eastern portion of the United States. This declaration is submitted in support of AMI's request for waiver of the last sentence of Section 90.495(a)(2) of the FCC's rules to allow AMI's six transmitter sites licensed under call sign WPDB244 in metropolitan Atlanta to be a part of AMI's grandfathered exclusive regional paging system licensed to operate on 929.8125 MHz ("Waiver Request").

2. I have read the Waiver Request. All facts stated therein are true and correct. Without limiting the foregoing statement, I would like to emphasize that AMI's existing 462.750 MHz PCP operation gets overlapping contiguous coverage between the same Fairplay site licensed for 929.8125 MHz and a downtown Atlanta site only one-half mile from the downtown Georgia-Pacific building site licensed on WPDB244. A person standing at the base of AMI's Fairplay tower can see the Georgia-Pacific building in downtown Atlanta. There is no valid engineering purpose in locating these two transmitters any closer together.

I declare under penalty of perjury that the foregoing statements are true and correct. Executed this 22nd day of February, 1994.

  
Stephen L. Flickinger

D.C. LAW OFFICES  
BROWN, NIETERT & KAUFMAN  
CHARTERED  
1920 N STREET, N.W., SUITE 660  
WASHINGTON, D.C. 20036

AMERICAN SECURITY BANK, N.A.  
#3 DUPONT CIRCLE, N.W. WASHINGTON, D.C.

15-55/540

11535  
NUMBER  
11535

PAY: ONE HUNDRED FIVE DOLLARS

DATE

AMOUNT

02/22/94

\*\*\*\*\*\$105.00

TO THE FCC  
ORDER  
OF

GENERAL ACCOUNT



⑈011535⑈ ⑆054000551⑆ ⑈864 08 770⑈